

K-C Docket No.: 19,043

Serial No.: 10/750,188

Response to Office Action Dated: January 24, 2008

### Remarks

Claims 1-18 are pending in the instant application. Claims 3-6, 17, and 18 have been previously withdrawn from consideration. Accordingly, claims 1, 2, and 7-16 form the subject matter of this amendment. Reconsideration of the present application in view of the following remarks is respectfully requested.

### Rejections Under 35 U.S.C. § 103(a)

Kuen in view of Krzysik does not teach or suggest each and every element of the claimed invention.

By way of the Office Action mailed January 24, 2008, the Examiner rejects claims 1-2 and 7-16 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent No. 5,931,825 to Kuen et al. (hereinafter "Kuen") in view of U.S. Patent No. 6,515,029 to Krzysik et al. (hereinafter "Krzysik"). This rejection is respectfully **traversed** to the extent that it may apply to the presently presented claims.

Kuen is directed to dual elastic, liquid barrier containment flaps for a disposable absorbent article. Independent claim 1 of the present application is directed to a disposable absorbent garment including, *inter alia*, a stretchable carrier layer extending from the front waist region to the back waist region and placed in facing relationship with the liquid barrier layer, the stretchable carrier layer having a width in the waist regions of about the waist region width. First, Kuen does not disclose, teach, or suggest that Kuen's outer layer 46 is stretchable as required by claim 1, only that it provides a relatively cloth-like texture. Similarly, Krzysik does not correct this deficiency of Kuen in that Krzysik also does not disclose, teach, or suggest that Krzysik's outer cover 32 is stretchable as required by claim 1. The stretchable carrier layer of the present application allows for a better fit of the absorbent garment.

Second, the Examiner has not provided an adequate motivation for combining the cited references. The Examiner posits that one would look to Krzysik to obtain a shape in which the waist is wider than the crotch. But Kuen already has this arrangement, as is apparent from Kuen's Fig. 2, for example. There is no motivation, therefore, to combine the references.

Further, the Examiner provides no basis for rejecting claims 13-16 over Kuen in view of Krzysik.

For at least these reasons, independent claims 1, 13, and 15, and claims 2, 7-12, 14, and 16 that eventually depend therefrom, are patentable.

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Kuen in view of Krzysik and further in view of Van Gompel does not teach or suggest each and every element of the claimed invention.

By way of the Office Action mailed January 24, 2008, the Examiner rejects claims 13-16 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Kuen in view of Krzysik and further in view of U.S. Patent No. 4,938,753 to Van Gompel et al. (hereinafter "Van Gompel") This rejection is respectfully **traversed** to the extent that it may apply to the presently presented claims.

Kuen in view of Krzysik and Van Gompel does not disclose, teach, or suggest all Applicants' claim limitations. Claims 13 and 15 are each directed to a method of making a disposable absorbent garment including, *inter alia*, a continuous web comprising a stretchable carrier layer. Kuen does not disclose, teach, or suggest that Kuen's outer layer 46 is stretchable as required by claims 13 and 15, only that it provides a relatively cloth-like texture. Similarly, Krzysik does not correct this deficiency of Kuen in that Krzysik also does not disclose, teach, or suggest that Krzysik's outer cover 32 is stretchable as required by claims 13 and 15. Finally, Van Gompel does not correct the deficiencies of Kuen and Krzysik at least in that Van Gompel does not provide a disposable absorbent garment including a stretchable carrier layer as required by claims 13 and 15. The stretchable carrier layer of the present application allows for a better fit of the absorbent garment.

For at least the reasons set forth above, Applicants respectfully request that all the rejections under 35 U.S.C. § 103 be withdrawn.

If the Examiner has any questions or if there are any remaining issues that can be handled by telephone, the Examiner is invited to contact the undersigned at (920) 721-8863.

Please charge any fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,

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